

REMARKS

This reply is submitted in response to the office action dated June 20, 2008.

Reconsideration of the Application is requested.

Claims 1-12, 16-17, 19-20, 22-33, 35, 57-62, 65-70, 73-85 are pending. Claims 1 and 27 are amended to correct inadvertent typographical errors. No claims are canceled. No new claims are added. Thus, no new matter is submitted.

Response to Rejections based on JP-11049903

Claims 1-5, 7-12, 16, 19, 20, 33 and 57 are rejected under 35 USC § 103(a) as being unpatentable over JP 11-049903 (Sasaki).

The Examiner suggests that Sasaki renders claims 1-5, 7-12, 16, 19, 20, 33 and 57 unpatentable because Sasaki discloses a composition comprising 80-99 wt % of a copolymer of ethylene and propylene and 1-20 wt % of a paraffinic mineral oil having a molecular weight of 200-2000, a kinematic viscosity of 20-800cSt, and a pour point of -40 – 0°C.

Applicants respectfully notes that the case was previously allowed over Sasaki. Sasaki was cited in the office action dated December 5, 2005. In response, applicants pointed out that Sasaki discloses blends of polyethylene with a process oil that is not a non-functionalized plasticizer as required by Applicant's claims. Paragraph [0016] of the provided translation clearly shows that Sasaki's process oil is a mixture of aromatics, naphthenes and paraffins. In contrast the polyolefin compositions of the present invention include a non-functionalized plastizer ("NFP") which is a compound comprising carbon and hydrogen, and does not include to an appreciable extent functional groups selected from...aryls and substituted aryls, [and]...carbon unsaturation.... By "appreciable extent", it is meant that these groups and compounds comprising these groups are not deliberately added to the NFP, and if present at all, are present at less than 5 wt% by weight of the NFP. (See Page 12, paragraph [0041] of the specification.)

At that time, Applicant also pointed out that the specific oils used in Sasaki's examples are most likely *Diana* Process Oils from Idemitsu Kosan (incorrectly translated as "dynaprocess"

oil in the attached translation). Diana Process Oils PW-90 and PW-380 described in the examples are both known to have a pour point of -15 °C. Paragraphs [0048] and [0049] of previously provided US 2005/0271851 show Diana Process Oils PW-90 and PW-380 have pour points of -15 °C. Thus, Diana Process Oil's PW -90 and PW-380 do not fall within Applicant's claimed invention.

The rejection of the application was maintained only on the grounds based on US 5,240,966. For these reasons, the Applicants again submit that Sasaki does not anticipate the current claims.

The applicant's respectfully also note that Sasaki is directed to adhesive polyethylene compositions. Adhesives are known to be low molecular weight compounds of the type expressly excluded by the requirement that polyethylene homopolymers and copolymers having a weight average molecular weight of from 500 to 10,000 are substantially absent from the composition of claim 1. The remaining claims are directed to polypropylene -based compositions.

Given the differences in the composition of the process oil and the types of polymers used by Sasaki, there is no reasonable expectation that the claimed non-functionalized plasticizers, which are neither disclosed by nor reasonably inferred from Sasaki, would be suitable in the higher molecular weight polypropylene compositions recited in the claims.

For these reasons, Applicants respectfully request the rejection of claims 1-5, 7-12, 16, 19, 20, 33 and 57 under 102/103(a) based on Sasaki be withdrawn.

Response to rejection based on JP 9-208761 to Tabata

Claims 1-5, 7-12, 19, 33, 57, 69, 73-77, and 80-85 stand rejected under U.S.C. §102(b) as being anticipated, or in the alternative under 35 U.S.C. §103(a) as being unpatentable over JP 9-208671 (Tabata). The applicants have reviewed Tabata in view of the Examiner's rejection and respectfully disagree for the following reasons.

The plasticizer in Tabata is Lucant HC-40. Lucant HC-40 is known to be an oligomer ethylene alpha-olefin having a molecular weight of about 1030 g/mol. This is supported by the material safety datasheet that described Lucant HC-40 as an ethylene alpha-olefin co-oligomer.

Thus, compositions such as Lucant HC-40 are specifically excluded by claim 1 which recites that ethylene homopolymers and copolymers having a molecular weight of 500 – 10,000 are substantially absent from the composition.

Likewise, Tabata fails to anticipate or establish a *prima facie* case of obviousness against Claim 17 because Tabata does not disclose a composition having each element of the claim. According to the Examiner, Tabata generically discloses that the composition comprises 100 parts by wt. of a propylene-based copolymer comprising 1-40 wt % of a propylene homopolymer and 60 to 99 wt % of a propylene-ethylene copolymer, 40 to 150 parts by weight of the Lucant HC-40 plasticizer and 20 to 100 parts by wt of an ethylene/a-olefin plastomer.

Thus, while Tabata discloses a polymer composition wherein the propylene homopolymer is present at 1 – 40 wt%, Claim 17 recites a composition that includes 40% to 95% by weight of a comprises propylene homopolymer or copolymer (Component A). Likewise, while Tabata discloses a composition that has 60 to 99 wt % of a propylene-ethylene copolymer, Claim 17 recites from 5% to 60% by weight of a propylene copolymer (Component B). Thus, Tabata does not disclose this element of the claim and does not anticipate or establish a *prima facie* case of obviousness against Claim 17.

Rejected independent Claims 33, 69 and 73-77 and 80-85 all recite that the composition is substantially free of elastomers. Tabata on the other hand is expressly directed at providing an elastomeric composition. Thus, the compositions of Tabata do not anticipate these rejected claims. Likewise, the compositions of Tabata cannot render these compositions obvious since the compositions of Tabata are direct at a purpose that is antithetical to that of the claim. Thus, the applicants respectfully request that the rejection under 35 U.S.C. §102/103 based on Tabata be withdrawn.

Response to Rejection based on the combination of Brant, Mikielski, Meka, and Bell

Claims 33, 65-70, and 73-85 are rejected under 35 USC § 103(a) as being unpatentable over US 6,639,020 (Brant) in view of WO 01/02482 (Mikielski I), US 6,803,415 Mikielski II), US 6,399,707 (Meka) and US 6,787,593 (Bell).

As the Examiner states, Brant qualifies as prior art only under §102(e). At the time the

claimed invention was made, however, the subject matter of Brant and the presently claimed invention were owned by the ExxonMobil Chemical Patents, Inc. or subject to an obligation of assignment to ExxonMobil Chemical Patents, Inc. Therefore, Brant cannot be relied upon to support a rejection under 35 U.S.C. §103(a). Consequently, the Applicants respectfully request that the rejection under 35 U.S.C. §103(a) based on US 6,639,020 (Brant) in view of WO 01/02482 (Mikielski I), US 6,803,415 (Mikielski II), US 6,399,707 (Meka) and US 6,787,593 (Bell) be withdrawn.

Response to Rejection based on the combination of Brant and Meka

Claims 17-26, 28-32, 35, 60 and 61 are rejected under 35 USC § 103(a) as being unpatentable over US 6,639,020 (Brant) in view of US 6,399,707 (Meka).

For the reasons discussed hereinabove, Brant cannot be relied upon to support a rejection under 35 U.S.C. §103(a). Consequently, the Applicants respectfully request that the rejection under 35 U.S.C. §103(a) based on US 6,639,020 (Brant) in view of US 6,399,707 (Meka) be withdrawn.

Double Patenting Rejections

After a review of the file, Applicants determined that one of the previously filed Terminal Disclaimers inadvertently referenced an incorrect Patent number. Applicants provide herewith a Terminal Disclaimer disclaiming any portion of the term exceeding that of U.S. Patent Application Serial No. 11/433,623.

CONCLUSION

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Reconsideration and allowance is respectfully requested. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

Please charge any deficiency in fees or credit any overpayments during the entire pendency of this case to Deposit Account No. 05-1712 (Docket #2002B107A). Please also charge any petition fees, including fees for extensions of time necessary for the pendency of this case or copendency of this application with another application at any time to Deposit Account No. 05-1712 (Docket #2002B107A).

Respectfully submitted,

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